

### **REMARKS**

Claims 1 and 3 have been amended.

The term "the" in claims 1, 3, 8, 10, 12, 13 and 15 have been changed to - - a - - thus overcoming the examiner's rejection under 35 U.S.C. 112.

Claims 1 and 3 as amended, and the remaining claims 2, 4, 5, 6, 8, 9, 10, 11, 12, 13, 15 and 16 are believed to be allowable over United States Patent No. 5,601,543 issued February 11, 1997 to Kimberly A. Dreier et al.

Claims 7 and 14 stand withdrawn from reconsideration in view of the provisional election of these claims made by the undersigned attorney during a telephone conversation with the Examiner on March 17, 2000. That election is hereby confirmed.

Briefly, the present invention relates to disposable absorbent article which, as defined by amended claim 1, comprises:

- (a) an absorbent body having a front waist portion, a back waist portion, a crotch portion and a pair of spaced apart leg openings;
- (b) an absorbent core member having a top portion and a bottom portion;
- (c) means for fastening said absorbent body to the body of the wearer of the absorbent article, and
- (d) at least one elasticized barrier layer, said elasticized barrier layer having an edge secured to said absorbent body and another edge overlying at least a segment of said top portion of said absorbent core member, thereby forming a retaining enclosure between said barrier layer and said segment of the top portion of said absorbent core member.

It is submitted that the structure defined by this claim is patentably distinguishable from the structure of Dreier et al. In addition, claim 1 is generic to the remaining elected claims in this application.

The Dreier et al. patent discloses an absorbent article having a waist pocket cuff which has first and second portions separable along a predetermined line of weakness such as spaced apart perforations. The disposable article, a diaper, comprises:

- (a) a liquid pervious topsheet;
- (b) a liquid impervious backsheet joined to the topsheet;
- (c) an absorbent core positioned between the topsheet and the backsheet; and a pocket cutoff joined to the diaper to cover a portion of the topsheet and form a pocket recess therebetween. The pocket cutoff includes a predetermined line of weakness which can be separated to empty fecal material from the pocket cuff recess.

In finding claims 4-6, 9, 11 and 16 to be allowable if rewritten in independent form to include all of the limitations of the base claim and any intervening claims, the examiner gave the following reasons, at page 5, paragraph 2, lines 2-3:

Examiner cannot locate a reference containing an absorbent article having a plurality of barrier layers, arranged such that pockets are formed between the barrier segments.

It is submitted that claims 1 and 3, as amended, are not anticipated by Dreier et al. since this reference does not identically disclose, nor does it suggest the structure in these amendment claims now recited in paragraph (d) of claim 1 and paragraph (d) of claim 3. Therefore, amended claims 1 and 3 are patentable over Dreier et al. under 35 U.S.C. 102 and even under 35 U.S.C. 103.



The references cited in the Office Action but not applied to the claims have been considered. These references however are even less pertinent than Dreier et al. and do not, alone or in any combination, affect the patentability of the claims of this application. Accordingly, reconsideration of the rejection and a favorable action are requested.

Respectfully submitted,

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**CERTIFICATE OF MAILING**  
**UNDER 37 C.F.R. 1.8(a)**

It is hereby certified that the within Amendment is being deposited with the United States Postal Service in a postage prepaid envelope, first-class mail, addressed to Hon. Commissioner of Patents and Trademarks, Washington, D.C. 20231 on this 7<sup>th</sup> day of October, 2000.

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Nancy Soto

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